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REMARKS

In response to the Final Office Action mailed on July 27, 2007, Applicants respectfully requests reconsideration. Claims 1, 5, 6, 8, 10-11, 15-16, 18, 20-22, 25-27, 30-32, 35-37 and 40-45 are now pending in this Application. Claims 1, 11, 21, 31 are independent claims and the remaining claims are dependent claims. Claims 43-45 have been amended. A version of the pending claims is included hereinabove. Applicants believe that the claims as presented are in condition for allowance. A notice to this affect is respectfully requested.

REJECTIONS UNDER §112

Claims 43-45 stand rejected under **35 U.S.C. §112, ¶1**, as for failing to comply with the written description requirement. Examiner asserts that claims 43-45 contain subject matter which was not described in Applicants' Specification. Claims 43-45 have been amended to conform to the requirements of **35 U.S.C. §112**. Therefore, Applicants believe this rejection has been traversed and request withdrawal of the rejection.

REJECTIONS UNDER §102

Claims 1, 5-6, 8, 10-11, 15-16, 18, 20-22, 24-27, 30-32, 34-37 and 40-45 stand rejected under **35 U.S.C. §102(e)** as being anticipated by Owensby (U.S. Patent Application No. 6,647,257 B2).

Claim 1 includes distinguishing limitations over the cited reference Owensby. Specifically, claim 1 recites **an audio sampler sampling portions of said audio stream**. As discussed in Applicants' Specification at ¶0033 and ¶0036, such a **sampling** step of independent claim 1 provides for sophisticated seeking in the audio stream by **sampling** phrases from a given audio segment, such as **sampling** one of every seven phrases from the audio.

Instead of **sampling an audio stream**, Owensby merely interrupts a wireless mobile communication and adds content to the wireless mobile communication during predetermined intervals during transmission of the mobile call. (See Col. 17, Lines 51-53) In particular, once a subscriber agrees to accept interruptions during a call, Owensby discloses a call routine algorithm to identify intervals in which advertisements are to be inserted. (See Col. 21, Lines 26-39) Owensby monitors the call throughout its duration so that advertisements are inserted at the appropriate time for calls that include advertisement interruptions. Content (e.g. advertising) is added to the call at an advertisement interruption and Owensby manages when the subscriber will hear the added content. (See Col. 21, Lines 26-39) Such insertion of advertisements during an interval is not **sampling** because Owensby's intervals represent lengths of time during a call but not the audio content of the call itself. Thus, Owensby fails to disclose **sampling portions of an audio stream** because determining such intervals alone cannot provide Applicants' advantage of **sampling** phrases during an Owensby call.

For the reasons stated above, Applicants submit that independent claim 1 is patentably distinct and advantageous over the cited reference, and the 35 U.S.C. §102(e) rejection of claim 1, and all claims dependent upon claim 1, should be withdrawn. Accordingly, allowance of claim 1 is respectfully requested. If the rejection of claim 1 is to be maintained, Applicants respectfully request that it be pointed out with particularity where the cited reference discloses **sampling portions of said audio stream**, as recited in claim 1.

Applicants respectfully submit that independent claims 11, 21, and 31 include similar patentable distinctions over the cited reference as claim 1. Thus, Applicants respectfully request allowance of independent claims 11, 21, and 31 and their respective dependent claims.

Applicants hereby petition for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an

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extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3735.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-9660, in Westborough, Massachusetts.

Respectfully submitted,

/DWR/

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